

REMARKS

The Decision on appeal mailed February 1, 2010, has been carefully studied. Claims 34-45 currently appear in this application. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicant respectfully requests favorable reconsideration and formal allowance of the claims.

The specification has been amended to make more clear that each hemolysin-producing fungus makes a hemolysin specific to itself. Paragraph [0015] in the specification as filed states that it is an object of the present invention to identify strains of fungi using an *in vitro* test. It is clear that the strains of hemolysin-producing fungi can only be identified if each hemolysin-producing fungus makes a hemolysin specific to itself. Otherwise, it would be impossible to identify individual strains of fungi. It is respectfully submitted that this is not new matter, but is merely a statement of what the present inventors have discovered is inherent in hemolysin-producing fungi.

Additional support for each hemolysin-producing fungus making a hemolysin specific to itself can be found in the specification as filed at paragraph [0032], as follows: "These antibodies to fungal hemolysin can be used in a conventional immunoassay such as an ELISA assay to determine if one has been exposed to strains of fungi which produce hemolysin. The hemolysin protein

itself can be used to determine if one has produced antibodies in response to exposure to the fungus.”

Paragraph [0062] states that fungal hemolysins can help large molecules pass through the blood-brain barrier by creating pores in the cells which form the blood-brain barrier. ... By combining such a molecule with a pore forming hemolysin, such as stachylysin, the drug can be delivered to the proper location.

In view of the above, it is respectfully submitted that the claims are now in condition for allowance, and favorable action thereon is earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By



Anne M. Kornbau
Registration No. 25,884

AMK:srd
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\E\Epa\Vesper1\Pto\2010-02-26Amendment.doc